

KIRBY McINERNEY & SQUIRE, LLP

**KIRBY McINERNEY & SQUIRE, LLP**

TELEPHONE:(212) 371-6600  
(212) 317-2300  
FACSIMILE:(212) 751-2540

*830 Third Avenue  
New York City 10022*

IRVING MALCHMAN, OF COUNSEL

**VIA E-FILING**

February 1, 2006

Clerk of the Court  
United States District Court for the District of Massachusetts  
Suite 2300  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Re: The City of New York and Captioned New York Counties (MDL 1456)  
(No. 01-CV-12257-PBS)

Dear Sir or Madam:

Per this Court's Order entered June 17, 2004 enclosed for filing in the above-captioned matters please find the February 1, 2006 status report for The City of New York and Captioned New York Counties.

Sincerely,

/s/ Aaron D. Hovan  
Aaron D. Hovan

Enclosures  
cc: All Parties on Verilaw

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

THIS DOCUMENT RELATES TO:

*The City of New York v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 04-CV-06054

*County of Albany v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0425

*County of Allegany v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0236

*County of Broome v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00456

*County of Cattaraugus v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0256

*County of Cayuga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0423

*County of Chautauqua v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-0214

*County of Chenango v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0354

*County of Columbia v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0867

*County of Dutchess v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 05-CV-6458

*County of Essex v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0878

*County of Fulton v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0519

*County of Genesee v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-00267

*County of Greene v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0474

*County of Herkimer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00415

*County of Jefferson v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0715

**February 1, 2006**

**STATUS REPORT FOR  
THE CITY OF NEW  
YORK AND  
CAPTIONED NEW  
YORK COUNTIES**

*County of Lewis v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0839

*County of Madison v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0714

*County of Monroe v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-1648

*County of Niagara v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6296

*County of Oneida v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0489

*County of Onondaga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0088

*County of Ontario v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6373

*County of Orleans v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6371

*County of Putnam v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 05-CV-4748

*County of Rensselaer v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-00422

*County of Rockland v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-7055

*County of St. Lawrence v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0479

*County of Schuyler v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6387

*County of Seneca v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6370

*County of Saratoga v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0478

*County of Steuben v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6223

*County of Suffolk v. Abbott Laboratories, Inc., et al.*  
E.D.N.Y. Case No. 03-CV-12257

*County of Tompkins v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0397

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*County of Warren v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0468

*County of Washington v. Abbott Laboratories, Inc., et al.*  
N.D.N.Y. Case No. 05-CV-0408

*County of Wayne v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-6138

*County of Westchester v. Abbott Laboratories, Inc., et al.*  
S.D.N.Y. Case No. 03-CV-6178

*County of Yates v. Abbott Laboratories, Inc., et al.*  
W.D.N.Y. Case No. 05-CV-06172

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The undersigned counsel for the Captioned-plaintiffs (hereinafter referred to as the City of New York and Captioned New York Counties) hereby submit the attached status report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Date: February 1, 2006

New York, New York

KIRBY McINERNEY & SQUIRE, LLP

By: /s/ Joanne M. Cicala

Joanne M. Cicala

Aaron. D. Hovan

830 Third Avenue

New York, New York 10022

(212) 371-6600

**COUNSEL FOR CITY OF NEW YORK AND  
CAPTIONED NEW YORK COUNTIES**

**MDL 1456 Status Report for the City of New York and Captioned New York Counties**

**Consolidated Complaint**

On August 16, 2005, Foley Hoag, LLP filed on behalf of defendants a Motion to Compel Disclosure by Plaintiff's and for Extension of Time to Comply with the Court's July 8, 2005 order. That motion was withdrawn on September 19, 2005 after plaintiffs disclosed the source of the pricing data set forth in the consolidated complaint.

On October 4, 2005, defendants filed a second Request for Extension of Time and Further Relief in Order to Comply with July 8, 2005 Order. Plaintiff's response was filed on October 12, 2005. No ruling has yet issued.

**Recent Filings**

On January 5, 2006 the City of New York, the Captioned New York Counties, Nassau County and the Defendants jointly filed a motion for entry of a Case Management Order and a proposed Case Management Order. The proposed Case Management Order provides a briefing schedule for the served Defendants motions to dismiss, as well as rules regarding the conduct of discovery and document access during the period required to brief and adjudicate the motions to dismiss.

**Certificate of Service**

I certify that on February 1, 2006 a true and correct copy of the foregoing February 1, 2006 Status Report was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/Aaron D. Hovan  
Aaron D. Hovan